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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,781	10/23/2003	Changyong Lee	4220-123 US	7161

7590 09/26/2007
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EXAMINER

MAHAFKEY, KELLY J

ART UNIT	PAPER NUMBER
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1761

MAIL DATE	DELIVERY MODE
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09/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,781

Applicant(s)

LEE ET AL.

Examiner

Kelly Mahafkey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/19/07 & 7/16/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendments made July 16, 2007 have been entered.

Claim 4 remains pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 16, 2007 has been entered.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komatsu et al. (US 3892058) in view of Meyer. The references and rejection have been incorporated herein and as cited in the office action mailed January 16, 2007.

Regarding the newly added limitation of coating long grain rice with a solution of emulsified oil prior to removing water from the long grain rice, packaging, sterilizing, and cooking the long grain rice, Meyer teaches the oiling step may be carried out at a point prior to packaging and that the rice may be cooked with the emulsified oil, applicant is reminded that a recitation of the method of making the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. Although the reference does not explicitly teach coating the rice with emulsified oil prior to draining the water from the rice, the references teaches that the rice is coated with the emulsified oil prior to packaging and draining of the rice is also performed prior to packaging, and thus the claimed invention would have been obvious as both steps are performed prior to packaging, absent any clear and convincing evidence and/or arguments to the contrary.

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Applicant is referred to the MPEP 2144.04 and reminded that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. The end product obtained in the Komatsu et al process is a cooked and sterilized product just as in the claimed process.

Regarding the newly added limitation of removing water from the long grain rice prior to packaging the long grain rice, Meyer, Column 2 lines 54-67, teaches that water is removed from the rice prior to packaging. It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the excess water from the rice prior to placing the rice in a package in order to prevent excess water in the final packaged product.

Regarding the newly added limitation of filling the long grain rice in plastic container prior to sterilizing the long grain rice, Komatsu (Column 15 lines 30-44) and Mayer (Example 1), both teach of placing the food product in a container prior to sterilization.

Regarding sealing the packaged cooked rice after sterilizing and cooking, it would have been obvious to one of ordinary skill in the art at the time the invention was made to seal the package with the rice after all the heat and gas processing steps had been completed. One would have been motivated to seal the bag after heating in order to allow the bag to accommodate the air volume inside the package during the processing steps.

Response to Arguments

Applicant's arguments filed April 19, 2007 and July 16, 2007 have been fully considered but they are not persuasive.

Applicant's arguments regarding the newly added limitations of sequential steps have been addressed in the rejection above.

Regarding applicant's argument that Meyer does not teach of sterilization as carried out at a high temperature, applicant is reminded that the rejection of the claim was made over a combination of references and that Komatsu, Column 15 lines 30-44, teaches of high temperature sterilization.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Mahafkey whose telephone number is (571) 272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lien Tran/
Primary Examiner
Group 1700

Kelly Mahafkey
Examiner
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A handwritten signature in black ink, appearing to read 'Kelly Mahafkey', with a stylized, flowing script.